

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Steven Kinne
2860 West Jolly Road
Okemos, MI 48864

Enforcement Case No. 07-5133

S & K Marketing, Inc.

Respondents

Issued and entered,
on 20 July 2007
by Frances K. Wallace,
Chief Deputy Commissioner

CONSENT ORDER

I.
BACKGROUND

Kinne Mortgage and Financial LLC (Kinne Mortgage) is a Michigan domestic limited liability company, organized under the laws of the state of Michigan, that has made applications for licensure as a mortgage broker under the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), Act No. 173 of 1987, as amended, MCL 445.1651 *et seq.*, and a registration under the Secondary Mortgage Loan Act (SMLA), Act No. 125 of 1981, as amended, MCL 493.51 *et seq.* Steven Kinne is the sole member of Kinne Mortgage.

At all times pertinent to the matter herein, Steven Kinne was a 50% shareholder of S & K Marketing, Inc. Steve Kinne and S & K Marketing, Inc. are collectively referred to herein as

Respondents. Pursuant to the records of the Michigan Department of Labor and Economic Growth Bureau of Commercial Services, Respondent S & K Marketing, Inc. dissolved on April 26, 2007.

In reviewing Kinne Mortgage's application, OFIS staff determined that Respondents were already conducting mortgage-related activities, which require licensure as a mortgage broker under the MBLSLA. Respondents are not presently licensed by the Office of Financial and Insurance Services ("OFIS") pursuant to the MBLSLA or any other consumer finance statute regulated by OFIS. Respondents and OFIS staff have conferred and have agreed to resolve this matter according to the terms set forth below.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. OFIS received applications for a mortgage broker license and registration certificates on March 19, 2007, from Kinne Mortgage. In reviewing the past practices of Kinne Mortgage's sole member, Respondent Steven Kinne, OFIS staff discovered that Respondent Steven Kinne and Respondent S & K Marketing, Inc. were conducting mortgage activity without a license in violation of Section 2 of the MBLSLA.

2. At all times pertinent to the matter herein, CBB, Inc. dba Bretlin Home Mortgage (Bretlin) was a licensed mortgage broker and lender under the MBLSLA and registered mortgage broker and lender under the SMLA.

3. In a letter to OFIS, Respondent Steven Kinne indicated that Respondent S & K Marketing, Inc. employed five mortgage loan originators. The originators received between 50-60% of their income from Bretlin. Bretlin deposited the loan originators' remaining income into Respondent S & K Marketing Inc.'s business account via wire transfers or by checks.

Respondent S & K Marketing Inc. would then disburse the remaining amounts to the loan originators. Respondent Steven Kinne further indicated that 10% of the income he earned for originating mortgage loans was reported by Bretlin to the Internal Revenue Service via a W2 form; however, the remainder of his income was deposited into Respondent S & K Marketing, Inc.'s account via wire transfers or by checks.

4. Respondent Steven Kinne submitted to OFIS the S Corporation tax return for S & K Marketing, Inc. reporting \$105,722 in gross receipts for 2005.

5. Respondent Steven Kinne submitted to OFIS the S Corporation tax return for S & K Marketing, Inc. reporting \$134,106 in gross receipts for 2006.

6. Section 2(1) of the MBLSLA prohibits a person from acting as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registration.

7. Section 2(3) of the MBLSLA prohibits a residential mortgage loan originator (also known as a loan officer) from receiving directly or indirectly any compensation, commission, fee, points or other remuneration from a mortgage broker, mortgage lender, or mortgage servicer other than his/her employer.

8. Respondents conducted first lien mortgage business without the requisite license or registration certificate required under Section 2 of the MBLSLA.

III. ORDER

It is ORDERED that:

1. Respondents shall cease and desist violating Section 2 of the MBLSLA.
2. Respondents shall pay to OFIS an applicable civil penalty of \$1,000.00. The fine shall be paid within 30 days of the date of entry of this Order.

3. Respondent Steven Kinne, as the sole officer/director/member of Kinne Mortgage and Financial LLC, shall establish and maintain a program to monitor and ensure compliance with all state and federal consumer laws and regulations relating to all mortgage activity conducted by Kinne Mortgage and Financial LLC.

4. Respondent Steven Kinne, as the sole officer/director/member of Kinne Mortgage and Financial LLC, shall educate himself and all employees of Kinne Mortgage and Financial LLC with respect to all state and federal consumer laws and regulations, including the Mortgage Brokers, Lenders, and Servicers Licensing Act.


5. Respondent Steven Kinne, as the sole officer/director/member of Kinne Mortgage and Financial LLC, shall review and ensure that Kinne Mortgage and Financial LLC complies with the OFIS Consumer Finance Bulletin No. 2003-09-CF posted on the OFIS website, which clarifies OFIS's position on employees and branch offices in Michigan.

6. Respondent Steven Kinne, as the sole officer/director/member of Kinne Mortgage and Financial LLC, shall immediately designate a compliance officer for Kinne Mortgage and Financial LLC, and provide written notification to OFIS of the compliance officer's name and business address, to ensure that Kinne Mortgage and Financial LLC, is in compliance with all applicable state and federal laws. Respondent Steven Kinne's written notice designating a compliance officer shall accompany the payment of the civil fine as provided for in Paragraph 2 of this Order. Respondent Steven Kinne, as the sole officer/director/member of Kinne Mortgage and Financial LLC, shall notify the Office of Financial and Insurance Services of any change in designation of the compliance officer within 30 days of such re-designation.

7. Respondent Steven Kinne, as the sole officer/director/member of Kinne Mortgage and Financial LLC, shall not utilize independent contractors for mortgage loan origination unless

they are: 1) licensed or registered under the MBLSLA; 2) exempted from the MBLSLA under Section 25; or 3) licensed as a class I licensee under the Consumer Financial Services Act.

The Chief Deputy Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as she shall deem just, necessary, and appropriate in accordance with the provisions of the MBLSLA. Failure by Respondent to abide by the terms and provisions of this Order may result in the commencement of additional proceedings.

A handwritten signature in black ink, reading "Frances K. Wallace", written over a horizontal line.

Frances K. Wallace
Chief Deputy Commissioner